

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RICHARD BRINK, et al.,

Plaintiffs,

No. C 11-00284 JSW

v.

JP MORGAN CHASE N.A., et al.,

ORDER TO SHOW CAUSE

Defendants.

On May 25, 2011, Plaintiffs Richard Brink and JD Davis Joyce (“Plaintiffs”) filed an *ex parte* application for a temporary restraining order (“TRO”). Federal courts are courts of limited jurisdiction and have a duty to raise and decide issues of subject matter jurisdiction *sua sponte* at any time it appears subject matter jurisdiction may be lacking. Fed. R. Civ. P. 12; *Augustine v. United States*, 704 F.2d 1074, 1077 (9th Cir. 1983). Federal courts can only adjudicate cases which the Constitution or Congress authorize them to adjudicate: those cases involving diversity of citizenship (where the parties are from diverse states), or a federal question, or those cases to which the United States is a party. *See, e.g., Kokkonen v. Guardian Life Insurance Co. of America*, 511 U.S. 375 (1994). Federal courts are presumptively without jurisdiction over civil cases and the burden of establishing the contrary rests upon the party asserting jurisdiction. *Id.* at 377.

Having reviewed the TRO and the amended complaint in this action, it appears as though subject matter jurisdiction is lacking. Based on Plaintiffs’ allegations, the parties are not diverse. Moreover, although Plaintiffs allege that this Court has jurisdiction pursuant to various

1 federal regulations, Plaintiffs only bring state-law claims against Defendants. Accordingly,
2 Plaintiffs are HEREBY ORDERED TO SHOW CAUSE ("OSC") why this matter should not be
3 dismissed for lack of jurisdiction. Plaintiffs shall file a response in writing to this OSC, and
4 serve a copy on Defendants, by no later than noon on May 27, 2011. In their response,
5 Plaintiffs shall also address the OSC issued by Magistrate Judge Joseph C. Spero on May 3,
6 2011. Moreover, to the extent Plaintiffs are able to demonstrate subject matter jurisdiction and
7 seek to obtain a TRO, Plaintiffs are advised to file an amended application. In their section
8 addressing the probability of success on the merits, Plaintiffs fail to address any of their claims,
9 let alone show that there is a reasonable probability of success on the merits of such claims.
10 Plaintiffs are FURTHER ORDERED to serve a copy of this Order on all Defendants by no later
11 than 3:00 p.m. today. Defendants may file a responsive statement regarding jurisdiction by no
12 later than 10:00 a.m. on May 31, 2011.

13 **IT IS SO ORDERED.**

14
15 Dated: May 26, 2011



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE